

July 1, 2013

Gary Pelletier, Esq.
35 Touro Street
Newport, RI 02840

RE: Records request of Emory Snell

Dear Attorney Pelletier:

I am writing in regard to your request, on behalf of your client, Emory Snell, and an order from the Supervisor of Public Records. In response, I have identified and enclosed the following documents:

Letter from agency notifying Dr. Zane that he is in a major policy-making position, dated January 6, 2009 (1 page);

Letter from Dr. Zane to CAO commending staff, dated September 17, 2004 (1 page);

Memo from Dr. Zane requesting administrative support during his secretary's maternity leave, dated January 19, 1993 (2 pages);

Memo authorizing Dr. Zane to have domicile privileges with OCME vehicle, dated April 7, 1997 (1 page);

Letter from agency notifying Dr. Zane that he is in a major policy-making position, dated November 15, 2010 (2 pages);

Memo to Dr. Zane regarding his "use or lose time," dated September 21, 2010 (1 page);

Letter from agency notifying Dr. Zane that he is in a major policy-making position, dated December 29, 2009 (2 pages);

Authorized Leave Requests, various dates (6 pages);

Memo to Dr. Zane regarding his "use or lose time," dated October 21, 2005 (1 page);

10. Medical notes (3 pages). These records are protected by both state and federal law (G.L. c. 4, § 7, cl. 26 (a) and (c)).

9. Medical note, dated October 18, 2001 (1 page). These records are protected by both state and federal law (G.L. c. 4, § 7, cl. 26 (a) and (c)).

8. Documents from the [redacted] regarding the [redacted] (3 pages). These records are protected by both state and federal law (G.L. c. 4, § 7, cl. 26 (a) and (c)).

- Phone policy acknowledgement, dated May 19, 2010 (1 page);
- Phone policy acknowledgement, dated March 8, 2010 (1 page);
- Training certificate, dated February 7, 2008 (1 page);
- Personal Protection Equipment acknowledgement form, dated September 30, 2005 (1 page);
- Phone policy acknowledgement, dated March 8, 2010 (1 page);
- Copy of Dr. Zane's Board of Registration in Medicine License, expires April 1, 2013 (1 page);
- Copy of Dr. Zane's Board of Registration in Medicine License, expires April 1, 2011 (1 page);
- Copy of Dr. Zane's Board of Registration in Medicine License, expires April 1, 2007 (1 page);
- Email regarding performance evaluation meeting, dated July 29, 2005 (1 page); and
- Copy of Dr. Zane's Curriculum Vitae (2 pages).

The Office of the Chief Medical Examiner has redacted out all personal information pursuant to G.L. c. 4, § 7, cl. 26 (c), the privacy exemption to the public records law.

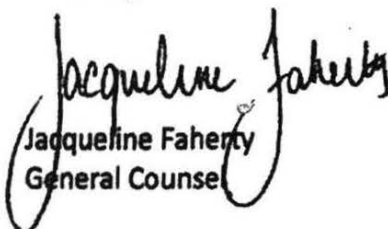
Additionally, I am providing you with a specific index of documents that are not being produced because they are not subject to the public records law. The index is as follows:

1. Letter and subpoena from an administrative agency (4 pages). These records are exempt because they are from an agency whose investigations may be by statute and regulation exempt from disclosure and because they are included in a personnel file, G.L. c. 4, § 7, cl. 26 (a) and (c);
2. Memo related to a personnel decision (2 pages), G.L. c. 4, § 7, cl. 26 (c);
3. Union grievance and agency response regarding personnel issue (5 pages), G.L. c. 4, § 7, cl. 26 (c);
4. Letter from employee regarding employment status and position (1 page), G.L. c. 4, § 7, cl. 26 (c);

- Phone policy acknowledgement, dated March 8, 2010 (1 page);
- Personal Protection Equipment acknowledgement form, dated September 30, 2005 (1 page);
- Training certificate, dated February 7, 2008 (1 page);
- Phone policy acknowledgement, dated March 8, 2010 (1 page);
- Phone policy acknowledgement, dated May 19, 2010 (1 page);
- Letter from agency notifying Dr. Zane that he is in a major policy-making position, dated December 15, 2011 (2 pages);
7. Letter from employee relating to possible disciplinary action (2 pages), G.L. c. 4, § 7, cl. 26 (c);
 8. Documents from HR regarding medical insurance (3 pages). These records are exempt because they are protected by both state and federal law (FIPA, HIPAA), are medical records and are contained within a personnel file, G.L. c. 4, § 7, cl. 26 (a) and (c);
 9. Medical note, dated October 18, 2001 (1 page). These records are exempt because they are protected by both state and federal law (FIPA, HIPAA), are medical records and are contained within a personnel file, G.L. c. 4, § 7, cl. 26 (a) and (c);
 10. Medical notes (3 pages) These records are exempt because they are protected by both state and federal law (FIPA, HIPAA), are medical records and are contained within a personnel file, G.L. c. 4, § 7, cl. 26 (a) and (c);
 11. Letters from employee regarding employment status (2 pages), G.L. c. 4, § 7, cl. 26 (c);
 12. Documents relating to a leave (17 pages). These records are exempt because they are protected by both state and federal law (FIPA, HIPAA), are medical records and are contained within a personnel file, G.L. c. 4, § 7, cl. 26 (a) and (c);
 13. Insurance form (1 page). These records are exempt because they are protected by both state and federal law (FIPA, HIPAA), are medical records and are contained within a personnel file, G.L. c. 4, § 7, cl. 26 (a) and (c);
 14. Letter from HR regarding insurance (1 page). These records are exempt because they are protected by both state and federal law (FIPA, HIPAA), are medical records and are contained within a personnel file, G.L. c. 4, § 7, cl. 26 (a) and (c);
 15. Performance Evaluations, FY 2008, FY 2006, FY 2005, and FY 2004, G.L. c. 4, § 7, cl. 26 (c);
 16. Workplace Safety Plan (1 page), G.L. c. 4, § 7, cl. 26 (n);
 17. Letter regarding personnel decision (1 page), G.L. c. 4, § 7, cl. 26 (c);
 18. Various payroll related records regarding banking, employee reimbursements, fund transfers, payroll deductions, and similar documents (122 pages) G.L. c. 4, § 7, cl. 26 (c);
 19. Various Industrial Accident related documents (42 pages). These records are exempt because they are protected by both state and federal law (FIPA, HIPAA), are medical records and are contained within a personnel file, G.L. c. 4, § 7, cl. 26 (a) and (c);
 20. Read receipt for email regarding potential employee action (1 page), G.L. c. 4, § 7, cl. 26 (c);
 21. Memo regarding meeting with HR (1 page), G.L. c. 4, § 7, cl. 26 (c); and
 22. Memo relating to potential discipline and personnel action (3 pages), G.L. c. 4, § 7, cl. 26 (c).

Thank you for your patience with the agency's response. Please feel free to contact me if you have any questions or concerns.

Sincerely,


Jacqueline Faherty
General Counsel

COMMONWEALTH

vs.

EMORY G. SNELL, JR.

DECISION ON PENDING MOTIONS

On Friday, August 11, 1995, the defendant filed a motion to continue the trial of this case which has been set down for August 21, 1995, to the November session, the next criminal session in this county. This motion was not heard on Friday, August 11, 1995, because the principle reason advanced for the motion was the receipt of a group of discovery documents by the defense from the Commonwealth on the day previous, August 10, 1995. It did not appear to the Court that on the next day, when the parties first came before the Court with their motion, that they had had an opportunity to carefully study these documents and ascertain whether or not the matters contained in them would cause any significant delay in their opinion.

These documents were furnished by the Commonwealth as a result of testimony during the motion to suppress, by officers of handwritten notes that they had originally prepared prior to their preparation of written reports which they had not delivered to the prosecutor, log entries which had been referred to in the course of

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hearing conducted this date, the only matter that appeared to the court to be significant on the motion was a belief on the part of defense counsel that two pages of a police officer's written report appeared to be missing. These two pages were not absent from the handwritten entries which were included in the documents that had been delivered, but rather, in the typewritten reports that had previously been received. The belief came from the absence of two page numbers in the report. By

The motion came on for hearing on Monday, this date, August 14, 1995. The defendant also filed a series of other motions which were also considered on this very same day. These motions will be referred to after the motion for continuance is first considered. This Court also, at the request of the defendant, conducted a lobby conference, which is of record, so that the defendant would be able to advance certain arguments that he stated that he had been unable to advance in the courtroom because they would involve disclosure of the defendant's trial strategy.

The affidavit, which was filed with the subject motion, contains a number of assertions. There were a number of changes in regard to these assertions by the time the matter was heard this date. Paragraph 3 states that the defendant has not received all the discovery that he is entitled to. I have not been made aware of any materials to which the defendant is entitled that have not been delivered as of this time.

Paragraph 4 deals with the materials that were delivered on August 10, 1995. Though there are eight specific types of documents referred to, by the close of the

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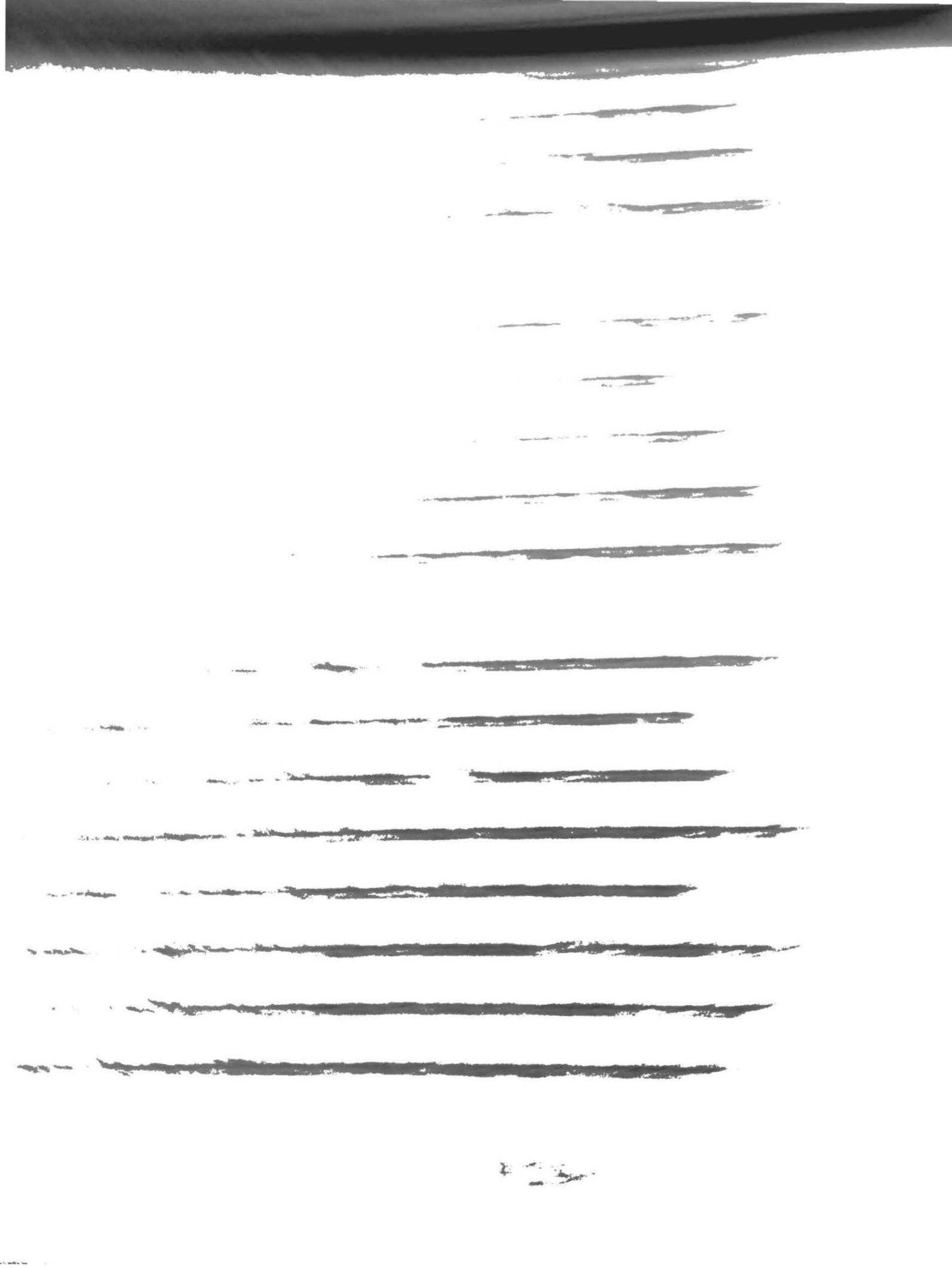
significant on the motion was a belief on the part of defense counsel that two pages of a police officer's written report appeared to be missing. These two pages were not absent from the handwritten entries which were included in the documents that had been delivered, but rather, in the typewritten reports that had previously been received. The belief came from the absence of two page numbers in the report. By the conclusion of the argument, it did not appear clear at all that there are any pages missing from a report, rather, it appears that each time there was a computer printout of the officer's report, there were differences in the page numbers assigned to pages in the report. The Court has left it with counsel that one of the defense counsel should go with the Commonwealth's counsel and compare the materials that were delivered in the past so that once and for all there can be a definite understanding as to whether any pages are missing at all. Now again, it should be pointed out that this does not really deal with the handwritten notes which were the subject of the latest discovery.

Paragraph 5 of the affidavit states that the defendant has not received any results from the DNA tests which were undertaken. When this motion was argued on this date, the Court was informed that those results had been made available to the defense counsel.

granted, November would be the earliest opportunity for a trial. The motion for the criminal sitting is in November, 1995, so that if a continuance of any length were that were authorized. In this county, with very limited judicial resources, the next to pursue that avenue at that time, it could have been done along with the other tests. In connection with this argument, the Court was asked to examine an independent, ex parte affidavit which had been filed on July 26, 1995, in connection with a motion for independent testing and which the Court had previously read on that date. No direct reference will be made to it in this decision. The Court has re-read it. The Court has considered, in addition to the argument, the affidavit of the defense counsel in support of the motion for additional DNA testing which was filed this date. In summary, the testimony of Trooper O'Neil and the testimony of Michael Higgins contained very little that is helpful on the questions raised by the motion. The report received from Cell-Mark Laboratories contains little that will be helpful during the course of the trial. The results were, in general, what was anticipated. In other words, the hair samples were consistent with having come from the victim and the seminal fluid was consistent with having come from her husband, the defendant.

In summary, considering that the date set for trial is one week from this date, I find nothing in the materials supplied to me that would permit a continuance of the trial for the purposes of additional DNA testing. Not only do the materials fail to demonstrate that such testing is reasonably likely to furnish evidence of value to the defendant, but additionally, it is apparent that whatever belief to that effect existed, that belief was every bit as apparent on July 26, 1995. If the defendant had desired

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COMPREHENSIVE CARE CENTERS:
Cardiovascular Institute Cancer Center
Digestive Disease Center Spine Center
Transplant Institute

2013 Beth Israel Deaconess Medical Center
730 Brookline Avenue, Boston, MA 02215
517-667-7000 / TDD 800-439-0183 / Maps & Directions

CONNECT WITH US

Court does not consider this particular case as having been the subject of "massive and prejudicial pre-trial publicity." The Court has every confidence at this point that the jurors can be questioned on the subject during the voir dire and during the trial be instructed to avoid listening to or reading media reports and that those approaches will be a sufficient way of handling the matter.


Herbert F. Travers, Jr.
Justice of the Superior Court

Dated: August 14, 1995

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